

SUPREME COURT OF SEYCHELLES

Reportable
CO48/2024

In the matter between:

THE REPUBLIC
(rep. by Ketlynn Marie)

Republic

and

MERVIN SERVINA
(rep. by Joshua Revera)

Convict

Neutral Citation: *The Republic v Mervin Servina* (CO 48/2024) (31 January 2025)

Before: Burhan J

Summary: Possession with intent to traffic 808.8 grams of Cannabis Resin.

Heard: 25th October 2024

Delivered: 31 January 2025

ORDER

I proceed to sentence the convict to a term of six months imprisonment.

SENTENCE

BURHAN J

- [1] The convict Mervin Servina was convicted on his own plea of guilt in respect of the amended charge sheet dated 26th July 2024 which reads as follows:

Count 1

Possession with intent to traffic a controlled drug contrary to Section 9 (1) read with Section 19 (1) (d) (ii) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) of specified in the Second Schedule of the Misuse of Drugs Act, 2016

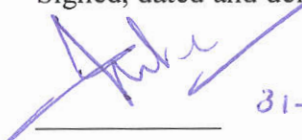
Particulars of offence are that Mervin Rod Servina of Anse Boileau, Mahe, on 26th June 2024, at his residence of Anse Boileau, was found in possession of a total of 808.8 grams of Hashish (cannabis resin) which gives rise to the rebuttable presumption of having possessed the said controlled drugs with intent to traffic.

- [2] Learned Counsel Mr Revera who appeared for the convict declined the offer from Court to call for a probation report prior to sentence. In mitigation, he submitted that the convict is 34 years of age and has four children aged 16,11,6 and 9 months. He is self-employed and has his own business and has 12 employees working for him. In respect of the cartridge found in his possession, he stated that it had been found at a sight which was being cleared by his employees. It is the contention of learned Counsel that despite the amount of controlled drug found in the possession of the convict (808.8 grams) was for his own personal use and for his employees, as it prevents them from using harder substances. In mitigation, learned Counsel moved that the convict be not incarcerated but given a fine.
- [3] I have considered the facts set out in mitigation. I will take into consideration the fact that the convict has pleaded guilty thereby saving the time of Court and has four young children. He is gainfully employed. The recommended sentence for such an offence of being in possession with the intent to traffic the specified quantity of 808.8 grams of a Class B controlled drug is a maximum of two years imprisonment. I also note that the charge is not one of simple possession but possession with intent to traffic and I note no charge has been brought against him for possession of the cartridge found in his possession.
- [4] Considering all the circumstances before Court, it is apparent when one considers the plea of mitigation that it was the intent of the convict to distribute the controlled drug among the 12 employees working with him. This in my view is more an aggravating factor as it

clearly establishes his intent to traffic the said controlled drug by distributing it. I therefore am inclined to impose a custodial term of imprisonment.

- [5] However, taking into consideration all the mitigating circumstances of this case, I will not impose the recommended maximum term of two years' imprisonment but a term of six months' imprisonment.
- [6] I proceed to sentence the convict to a term of six months' imprisonment. Time spent in remand to count towards sentence.
- [7] During this period of time he is to undergo rehabilitation treatment. The convict is entitled to remission. Copy of this sentence to be served on the Commissioner of Prisons.

Signed, dated and delivered at Ile du Port on 31 January 2025.


31-01-2025
M Burhan J

